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AD HOC INTERGOVERNMENTAL WORKING
GROUP OF EXPERTS ESTABLISHED
PURSUANT TO GENERAL ASSEMBLY
RESOLUTION 48/218
Third session
6-9 September 1994

DRAFT REPORT OF THE AD HOC INTERGOVERNMENTAL GROUP OF EXPERTS ESTABLISHED PURSUANT TO GENERAL ASSEMBLY RESOLUTION 48/218 ON THE THIRD SESSION

IV. PROPOSED RECOMMENDATIONS

1. The Working Group, having considered the substantive matters mentioned in section III above, concluded that there was a need to improve in certain aspects, and to strengthen in others, the financial administration of the Organization. The Working Group noted that important steps had already been initiated, both by the General Assembly and by the Secretary-General, in this regard. While welcoming these developments, the Working Group nevertheless is of the view that additional action needs to be taken.

2. In establishing the Working Group, the General Assembly reiterated that it was determined to address alleged cases of fraud in the United Nations. In this context, the Working Group took note of the extraordinary increase in the conduct of peace-keeping operations in recent years and consequent high levels of expenditure. It noted a number of financially significant instances of fraud or presumptive fraud in this area and it concluded that, in view of the extremely high level of expenditure involved, procurement for peace-keeping operations constitutes a major risk area of possible fraud or other abuse against the United Nations, both outside of and within the Organization.

3. The Working Group also studied with care the material provided to it by the Secretariat concerning cases of fraud and presumptive fraud arising within the United Nations during the biennium 1992-1993 and the two immediately preceding bienniums. In employing the term fraud, the Secretariat excluded waste, abuse, property loss or misleading financial information. In recent years, such cases of fraud and presumptive fraud arising from within the United Nations, have,

according to the statistics presented to the Working Group by the Secretariat, not resulted in significant financial loss to the Organization. However, the Working Group considers that remedial efforts are also warranted in such cases, whether arising from within or outside of the Organization, and the results should be reported to the General Assembly.

4. The Working Group therefore recommends for the consideration of the General Assembly the following measures, which it considers would reduce the potential for fraud and presumptive fraud against the United Nations:

(a) Along the lines of the standing instruction from the United Nations Controller referred to in the report of the Secretary-General of 8 October 1992 (A/47/510, para. 8) for notifying the Controller of cases of fraud, suitable provisions should be made in the Financial Regulations and Rules and the Staff Regulations and Rules requiring every staff member of the United Nations to bear responsibility for the protection of the financial integrity of the United Nations and requiring him or her to report without delay to the Secretary-General any instance in which there appears to be financial irregularity or misconduct involving the financial integrity of the United Nations, whether arising within or outside of the Organization;

(b) Greater emphasis should be given to periodic training at Headquarters and other major duty stations for all authorized personnel engaged in certifying, approving, disbursing, inventory and assets control, inspecting and contracting functions having significant financial implications, and especially those similarly engaged in peace-keeping and procurement operations. The training would also cover promoting fraud awareness and ethics relevant especially to those involved in field operations;

(c) The Group considered at length the scope for the continued broad involvement of intergovernmental experts in updating and diversifying the Financial Regulations and Rules and financial procedures, especially in the context of application to peace-keeping missions and in the investigation of and follow-up to the findings of investigations into financial irregularities and presumptive frauds. The Working Group also considered the establishment of a new body. However, it was of the view that the General Assembly might wish to request a review of the initiatives already under way before taking a decision on the creation of any formal expert body, or empowering the Advisory Committee on Budgetary and Administrative Questions to effect such reviews. There was a general view that the experience of governmental experts should remain available to the Secretary-General in the process of review and revision of the financial procedures that was already under way, and that the Secretary-General should also be in a position to call on the advice of experts appropriately qualified in such matters and in the investigation and adjudication of complex cases of presumed irregularity or fraud and obtain from them an opinion on the responsibility attaching to the persons involved in such cases. Advice could also be given to the Secretary-General on the preventive measures necessary to reduce these financial irregularities. The Secretary-General would enable the experts to consult necessary documents and question concerned persons in the course of investigations. Therefore, the Working Group recommends that an ad hoc panel of experts in financial/personnel matters with additional expertise in legal procedures should be established for the purpose of rendering

assistance to the Secretary-General. To assure the Member States of transparency, the experts on the panel should be nominated by Member States and approved by the General Assembly. One or more experts may, at the request of the Secretary-General, be asked to assist as a panel to oversee the periodic updating of any financial, staff, procurement, or other regulations, rules and instructions, as well as those relating to inventory control, contracting, peace-keeping and delegation of powers within the Organization. The experts on the panel may also collectively provide a resource for the Secretary-General by giving assurances of transparency to Governments;

(d) The Statute of the United Nations Administrative Tribunal should be amended to give it jurisdiction to adjudicate financial claims submitted by the Secretary-General against staff members;

(e) It is essential to take speedy action in cases of lack of integrity, as distinct from other cases of misconduct, and the Secretary-General may consider the use of provisions of article IX of the Staff Regulations to separate from service staff members whose conduct does not meet the highest standards of integrity. Invoking provisions of article IX would be preferable in cases where it is not considered necessary to deny the person payment of termination indemnity rather than carrying out the time-consuming disciplinary measures applicable to the circumstances of the case;

(f) The rules and instructions issued for constitution of the Joint Disciplinary Committee should be reviewed and provisions made in the revised rules and instructions for full-time secondment of staff members from the same or other duty stations to serve on the Joint Disciplinary Committee for the duration of the work of the Committee. Provision may also be made alternatively for the nomination of former employees or of experts from the same or nearby duty stations on the Joint Disciplinary Committee, in consultation with the staff, where nomination of staff members to the Committee cannot be effected within the time prescribed for the constitution of the Committee;

(g) The General Assembly should recommend that Member States:

(i) Extend to the United Nations and to other Member States assistance in investigating and securing criminal prosecution of individuals who defraud or attempt to defraud the United Nations;

(ii) Consider enacting legislation making fraud and attempted fraud against the United Nations subject to the jurisdiction of national courts and punishable by appropriate penalties.

5. In the context of the above the Working Group also recommends that:

(a) In view of the changing mandates and requirements of the Organization, the Secretary-General should review periodically the Financial Rules and amend them as appropriate;

(b) In the context of the review of the Financial Rules, clarification and a more precise definition of the following should be provided:

(i) The functions and responsibilities of: the Headquarters and, in the field, local Committees on Contracts; and the requisitioning, certifying, approving, and receiving and inspection officers;

(ii) The rules governing the delegation of authority, especially in the finance and procurement areas;

(c) The Secretary-General should promulgate a set of financial and staff rules specifically for and limited to temporary peace-keeping missions that would:

(i) Ensure the independence and objectivity of persons appointed for procurement functions;

(ii) Provide for expeditious staffing and equipping of the missions;

(iii) Establish a time limit within which an initial audit of the mission will be undertaken and provide a schedule for follow-up action;

(iv) Introduce suitable procedures and mechanisms to ensure expeditious action against personnel, both civilian and military, found to have caused damage to or loss or destruction of United Nations property;

(v) Define and delimit the circumstances for the write-off of United Nations property;

(vi) Elaborate specific procedures for the closure of the missions, including repatriation of staff and liquidation of United Nations assets;

(vii) Identify and compile a roster of banking institutions that would be willing to undertake banking activities for the United Nations in high risk missions.

6. The Working Group would also advise the Secretary-General that surcharges should be imposed on staff members who violate the provisions of the Financial Regulations and Rules and other financial instructions of the United Nations. Where needed, amendments may be made to the Financial Regulations to amplify their provisions to enable the levy of surcharges.

7. While the primary responsibility for the prevention and detection of fraud is that of management, the Working Group believes that the strengthening of the internal and external audit functions would contribute greatly to the deterrence of fraud and other misconduct in the United Nations. Accordingly, it strongly endorses the initiatives under way in this direction. The Working Group also recommends that the Secretary-General monitor the effectiveness of the newly established United Nations Development Programme (UNDP) Committee on Personal Responsibility and Financial Liability and consider whether it would be useful to establish a similar mechanism in the United Nations. The Board of Auditors, in its recent report on UNDP, 1/ noted that this committee is an innovation in the United Nations system and saw much merit in its activities as it sends a

clear signal to staff that they are responsible for the propriety of their actions.

Notes

1/ See Official Records of the General Assembly, Forty-ninth Session, Supplement No. 5A (A/49/5/Add.1), sect. II, paras. 89-98.